

The record consists of the documents filed of record with the Division of Workers Compensation in this docketed matter, including the transcript of Preliminary Hearing before Administrative Law Judge Floyd V. Palmer on May 13, 1994, and the exhibits attached thereto.

ISSUES

- (1) Whether the claimant is entitled to temporary total disability.
- (2) Whether the claimant is entitled to additional medical treatment.
- (3) Whether there is jurisdiction before the Board of Appeals pursuant to K.S.A. 44-534a to review the decision of Administrative Law Judge Floyd V. Palmer.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the evidence presented and for purposes of preliminary hearing, the Appeals Board finds as follows:

- (1) The decision of Administrative Law Judge Floyd V. Palmer dated May 13, 1994 is hereby affirmed.

The record is clear that at the preliminary hearing the parties stipulated to all necessary admissions for purposes of the preliminary hearing. The record is clear that the parties stipulated the claimant had an injury to her right hand which arose out of and in the course of her employment and the only issue at the preliminary hearing was claimant's entitlement to temporary total disability and medical treatment. Temporary total was denied based on claimant's failure to return to work after release by the treating physician. The claimant has failed to allege any jurisdictional issue for the Appeals Board to consider.

- (2) K.S.A. 44-551 defines and limits the jurisdiction of the Appeals Board on appeals from preliminary orders to appeals which allege that the Administrative Law Judge has exceeded his or her jurisdiction. Pursuant to K.S.A. 44-534a(2), issues from a preliminary hearing that the Appeals Board has jurisdiction to review are ". . . whether the employee suffered an accidental injury, whether the injury arose out of and in the course of the employee's employment, whether notice is given or claim timely made, or whether certain defenses apply" Since none of these issues are disputed in this matter and it is not otherwise alleged that the Administrative Law Judge exceeded his jurisdiction, the Appeals Board does not have jurisdiction to modify or change the decision of Administrative Law Judge Floyd V. Palmer and the decision of May 17, 1994, is therefore affirmed in its entirety.

AWARD

WHEREFORE, it is the finding, decision and order of the Appeals Board that the Order of Administrative Law Judge Floyd V. Palmer shall be and is affirmed in all respects and shall remain in full force and effect.

IT IS SO ORDERED.

Dated this _____ day of September, 1994.

BOARD MEMBER PRO TEM

BOARD MEMBER

BOARD MEMBER

c: Stephen P. Doherty, 707 Minnesota Ave., Suite 100, Kansas City, KS 66101
Paula Greathouse, P.O. Box 2204, Emporia, KS 66801
Floyd V. Palmer, Administrative Law Judge
George Gomez, Director